

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	In Chapter 7
)	Case No. 18 B 35437
STEVEN D. ZARLING,)	Honorable LaShonda A. Hunt
)	Motion Date: May 30, 2019
Debtor.)	Motion Time: 10:00 a.m.

NOTICE OF MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE THAT on May 30, 2019, at the hour of 10:00 a.m., a **LINDA NELSON'S MOTION FOR 2004 EXAMINATION OF DEBTOR, STEVEN D. ZARLING** shall be heard before the Honorable LaShonda A. Hunt of the United States Bankruptcy Court for the Northern District of Illinois, Courtroom 719, 219 South Dearborn, Chicago, Illinois. A copy of same is attached hereto and thereby served upon you. You may appear if you so see fit.

GOLAN CHRISTIE TAGLIA LLP

AFFIDAVIT OF SERVICE

I, Robert R. Benjamin, an attorney, certify that I caused the foregoing Notice of Motion and Motion for 2004 Examination of Debtor, Steven D. Zarling to be served upon the parties who receive notice via CM/ECF, by e-mail and first class mail postage prepaid sent from 70 W. Madison Street, Suite 1500, Chicago, IL 60602 on May 21, 2019.

/s/Robert R. Benjamin
Robert R. Benjamin

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MOTION FOR RULE 2004 EXAMINATION OF DEBTOR, STEVEN D. ZARLING

Creditor, LINDA NELSON (“Nelson”), by and through her attorneys, Robert R. Benjamin, Beverly A. Berneman and Anthony J. D’Agostino of GOLAN CHRISTIE TAGLIA LLP, moves this Court to enter an order authorizing discovery from STEVEN D. ZARLING (the “Debtor”), under Fed. R. Bankr. P. 2004. In support thereof, Nelson states as follows:

BACKGROUND

1. On December 26, 2018, Debtor filed a voluntary petition as an individual for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code (“Bankruptcy Code”), which included his schedules and Statement of Financial Affairs. [Dkt. No. 1.]
2. On January 29, 2019, Debtor appeared for a creditor’s meeting pursuant to §341 of the Bankruptcy Code (the “341 Meeting”). The 341 Meeting was continued for further study on March 26, 2019 and April 30, 2019.
3. On February 6, 2019, Debtor filed amended bankruptcy schedules disclosing a February 2018 workers’ compensation settlement in the amount of \$39,810.82 (the “Settlement Funds”). [Dkt. No. 12.]
4. Debtor asserts an exemption as to the Settlement Funds pursuant to 820 ILCS 305/21. *Id.*

5. On February 6, 2019, Debtor also filed an Amended Statement of Financial Affairs and disclosed that the Settlement Funds were transferred to George Zarling, Debtor's brother, in February 2018. [Dkt. No. 13.]

6. On April 4, 2019, counsel for Nelson inquired as to whether Debtor's counsel would be willing to share any documentation produced to the trustee after the 341 Meeting. Debtor's counsel has not responded to the inquiry.

7. Nelson brings this motion to permit further investigation of Debtor's finances to determine whether the Debtor should be denied discharge or his debt to Nelson be declared non-dischargeable. Specifically, Nelson is investigating the following:

- a. Receipt and transfer of the Settlement Funds;
- b. Bases for filing the amended bankruptcy schedules and Amended Statement of Financial Affairs;
- c. Assertion of an exemption over the Settlement Funds;
- d. Statements made to Nelson to induce her to loan Debtor funds; and
- e. Debtor's financial condition.

JURISDICTION AND VENUE

8. This Court has jurisdiction to hear and determine this motion pursuant to 28 U.S.C. § 1334(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G). Venue in this district is proper pursuant to 28 U.S.C. § 1408.

9. Nelson brings this Motion pursuant to Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 2004 and Local Rule 9013(9)(A)(10).

DISCUSSION

10. Bankruptcy Rule 2004 permits a party in interest to examine any entity or the debtor. The scope of examination is broad; the examination often involves questions about a

debtor's conduct, assets and liabilities. Fed. R. Bankr. P. 2004(b); *see e.g., In re Comdisco, Inc.*, 2006 WL 2375458 *6 (N.D. Ill.). "A Rule 2004 exam has been explained as a broad investigation into the financial affairs of the debtor for the purpose of the discovery of assets of the estate and the exposure of fraudulent conduct." *In re 2435 Plainfield Ave.*, 223 B.R. 440, 456 (Bankr. D.N.J. 1998). Tax information and tax returns fall within the scope of Rule 2004. *In re GHR Companies, Inc.*, 41 B.R. 644, 660 (Bankr. D. Mass. 1984).

11. Nelson seeks to elicit discovery from the Debtor under Fed. R. Bankr. P. 2004(c), including the production of documents and attendance at an examination, if necessary, to evaluate the accuracy and completeness of the Debtor's Petition, Schedules and Statements of Financial Affairs and all amendments thereto.

12. Nelson reserves the right to request additional Rule 2004 authority to pursue entities that might possess documents or information responsive to the foregoing categories depending upon the Debtor's responses.

WHEREFORE, Creditor, Linda Nelson, requests the Court to enter an Order authorizing Linda Nelson to conduct discovery of the Debtor pursuant to Fed. R. Bankr. P. 2004, and for such other and further relief as is just.

Dated: May 21, 2019

LINDA NELSON, Movant

By: Robert R. Benjamin
One of her attorneys

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